IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3O85 OF 2006

Baburao Amrutrao Khavekar Petitioner
versus
Sau Sharannavva Shankaryappa Kavekar and others Respondents

Amit Sale for petitioner.

CORAM : A.P.DESHPANDE, J.

DATE : 13th December 2006

PC :

1. The present petitioner who has purchased the suit property during pendency of the suit was directed to be impleaded as party defendant no.4. The petitioner was served with the summons on 25th October 2004. As the petitioner failed to file written statement within the prescribed period of 90 days, an order came to be passed that the suit be proceeded ex-parte against the present petitioner. After about an year the petitioner moved an application seeking permission to file the written statement on record so also for setting aside the order to proceed ex-parte. The rejection of the said

application has given rise to filing of this petition.

2. In the application the petitioner has stated two reasons which prevented him from filing the written statement and the same are :-

(i) that the petitioner could not get leave;

(ii) that he is not aware about provisions of law.

The record reveals that the application is very cryptic and is not even supported by an affidavit. The Trial Court ha rejected the said application by holding that the petitioner was not prevented by sufficient cause from filing of the written statement for a period of more than one year and thus rejected the application. Two things need to be noted viz. (i) that the present petitioner claims to have entered into an agreement for purchase of the suit property during pendency of the suit and the transaction is hit by lis-pendence ; and (ii) that the petitioner has to stand in the shoes of his vendors who are the original defendant nos.1 to 3. The real contest is between the plaintiffs

and original defendants 1 to 3.

3. Perused the order. It does not suffer from any illegality. Hence the writ petition is summarily dismissed.

(A.P.DESHPANDE, J.)